

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: McKenzie Dean	Team: Squad #16	CCRB Case #: 202104113	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 07/11/2021 4:45 AM, Sunday, 07/11/2021 8:30 AM	Location of Incident: § 87(2)(b) 71 Precinct stationhouse	Precinct: 71	18 Mo. SOL 1/11/2023	EO SOL 1/11/2023	
Date/Time CV Reported Sun, 07/11/2021 2:57 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sun, 07/11/2021 2:57 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. POM Mubbashar Zahid	03267	965634	071 PCT
3. LSA Timothy Brovakos	00000	943025	071 PCT
4. POM Aaqib Bhatti	14985	963873	071 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Christophe Rodriguez	04501	964733	071 PCT
2. POM Steven Caraballo	21893	952545	071 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LSA Timothy Brovakos	Abuse: At § 87(2)(b) in Brooklyn, Lieutenant Timothy Brovakos stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	§ 87(2)(b)
B.LSA Timothy Brovakos	Abuse: At § 87(2)(b) in Brooklyn, Lieutenant Timothy Brovakos frisked § 87(2)(b)	§ 87(2)(b)
C.LSA Timothy Brovakos	Abuse: At § 87(2)(b) in Brooklyn, Lieutenant Timothy Brovakos searched § 87(2)(b)	§ 87(2)(b)
D.LSA Timothy Brovakos	Abuse: At § 87(2)(b) in Brooklyn, Lieutenant Timothy Brovakos threatened to arrest § 87(2)(b)	§ 87(2)(b)
E.POM Mubbashar Zahid	Abuse: At § 87(2)(b) in Brooklyn, Police Officer Mubbashar Zahid searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	§ 87(2)(b)
F.LSA Timothy Brovakos	Force: At § 87(2)(b) in Brooklyn, Lieutenant Timothy Brovakos used physical force against § 87(2)(b)	§ 87(2)(b)
G.POM Aaqib Bhatti	Force: At § 87(2)(b) in Brooklyn, Police Officer Aaqib Bhatti used physical force against § 87(2)(b)	§ 87(2)(b)
H.POM Mubbashar Zahid	Force: At § 87(2)(b) in Brooklyn, Police Officer Mubbashar Zahid used physical force against § 87(2)(b)	§ 87(2)(b)
I.LSA Timothy Brovakos	Abuse: At § 87(2)(b) in Brooklyn, Lieutenant Timothy Brovakos frisked § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
J.LSA Timothy Brovakos	Abuse: At § 87(2)(b) in Brooklyn, Lieutenant Timothy Brovakos stopped § 87(2)(b)	
K.LSA Timothy Brovakos	Discourtesy: At § 87(2)(b) in Brooklyn, Lieutenant Timothy Brovakos spoke discourteously to § 87(2)(b)	
L.LSA Timothy Brovakos	Discourtesy: At § 87(2)(b) in Brooklyn, Lieutenant Timothy Brovakos spoke discourteously to § 87(2)(b)	
M.LSA Timothy Brovakos	Abuse: At § 87(2)(b) in Brooklyn, Lieutenant Timothy Brovakos threatened to arrest § 87(2)(b)	
N. An officer	Abuse: At § 87(2)(b) in Brooklyn, an officer threatened to arrest § 87(2)(b)	
O.LSA Timothy Brovakos	Abuse: At § 87(2)(b) in Brooklyn, Lieutenant Timothy Brovakos threatened to arrest § 87(2)(b)	
P.LSA Timothy Brovakos	Abuse: At § 87(2)(b) in Brooklyn, Lieutenant Timothy Brovakos failed to provide § 87(2)(b) with a business card.	
Q.LSA Timothy Brovakos	Abuse: At § 87(2)(b) in Brooklyn, Lieutenant Timothy Brovakos failed to provide § 87(2)(b) with a business card.	
R. An officer	Abuse: At the 71 Precinct stationhouse, an officer did not process § 87(2)(b)'s complaint regarding officers.	
§ 87(4-b) § 87(2)(g)		
§ 87(4-b) § 87(2)(g)		

Case Summary

On July 11, 2021, § 87(2)(b) filed this complaint with the CCRB via call processing system and then with IAB over the phone. The duplicate complaint was received by the CCRB on July 21, 2021 and is associated with CCRB case number § 87(2)(b).

On July 11, 2021, at approximately 4:45 AM, § 87(2)(b) was sitting in the passenger seat of his wife's vehicle outside his apartment located at § 87(2)(b) in Brooklyn while his friend, § 87(2)(b) was in the driver's seat. Lt. Timothy Brovakos, PO Mubbashar Zahid, PO Aaquib Bhatti, PO Christopher Rodriguez, and PO Steven Caraballo, all of the 71st Precinct, stopped the vehicle (**Allegation A: Abuse of Authority, § 87(2)(g)**). Lt. Brovakos asked § 87(2)(b) to exit the vehicle, § 87(2)(b) stepped out, and Lt. Brovakos frisked him and allegedly searched his bag (**Allegation B: Abuse of Authority, § 87(2)(g)**) (**Allegation C: Abuse of Authority, § 87(2)(g)**).

The officers instructed § 87(2)(b) to exit the vehicle and he refused. Lt. Brovakos told § 87(2)(b) that he could be arrested for obstructing (**Allegation D: Abuse of Authority, § 87(2)(g)**). PO Zahid allegedly put his hand underneath the driver's seat and looked around (**Allegation E: Abuse of Authority, § 87(2)(g)**). Lt. Brovakos and PO Bhatti pulled on § 87(2)(b)'s arm and PO Zahid grabbed, squeezed, and bent § 87(2)(b)'s hand, causing a scratch (**Allegation F-H: Force, § 87(2)(g)**). Lt. Brovakos frisked § 87(2)(b)'s waistband and his bag (**Allegation I: Abuse of Authority, § 87(2)(g)**) and then requested his identification, which § 87(2)(b) provided (**Allegation J: Abuse of Authority, § 87(2)(g)**).

§ 87(2)(b) told Lt. Brovakos he defecated on himself and Lt. Brovakos allegedly said, "I don't give a shit" and made several statements including the word "shit" (**Allegation K: Discourtesy, § 87(2)(g)**) (**Allegation L: Discourtesy, § 87(2)(g)**). Lt. Brovakos allegedly told § 87(2)(b) that if he did not exit the vehicle, the officers would arrest § 87(2)(b) for his warrant (**Allegation M: Abuse of Authority, § 87(2)(g)**) and an officer allegedly told § 87(2)(b) that the officers could take him in (**Allegation N: Abuse of Authority, § 87(2)(g)**). Lt. Brovakos told § 87(2)(b) that he would arrest him the next time he stopped him while he was driving with a suspended license (**Allegation O: Abuse of Authority, § 87(2)(g)**). Lt. Brovakos used his discretion to release § 87(2)(b) and § 87(2)(b) and the officers left. Lt. Brovakos did not provide a business card to § 87(2)(b) or § 87(2)(b) (**Allegations P and Q: Abuse of Authority, § 87(2)(g)**).

At approximately 8:30 AM that same day, § 87(2)(b) visited the 71st Precinct stationhouse to file a complaint about the officers from that morning. § 87(2)(b) told an officer that he wanted to file his complaint at the stationhouse, and she told him that he could not do so (**Allegation R: Abuse of Authority, § 87(2)(g)**). No civilians were arrested or summoned during either incident.

§ 87(4-b) § 87(2)(g)

BWC footage was received from the cameras of Lt. Brovakos, PO Bhatti, PO Zahid, PO Caraballo, and PO Rodriguez (**BR 01-BR 07**). § 87(2)(b) sent cellphone photos (**BR 36**) of the scratch on his wrist and his pants after he defecated in them.

Findings and Recommendations

Allegation (A) Abuse of Authority: At § 87(2)(b) in Brooklyn, Lieutenant Timothy Brovakos stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

It is undisputed that § 87(2)(b) had a mobility impairment due to a previous injury; however, the extent of his injury is unknown. § 87(2)(b) was in the passenger seat of the car, while § 87(2)(b) was in the driver's seat as the vehicle was legally parked outside of § 87(2)(b).

§ 87(2)(b)'s apartment building. The men had just driven back from Atlantic City, and they were waiting for § 87(2)(b) to regain movement in his limbs. Lt. Brovakos, PO Bhatti, PO Zahid, PO Caraballo, and PO Rodriguez approached the vehicle and asked the men to exit. Lt. Brovakos accused § 87(2)(b) of being under the influence.

§ 87(2)(b) (BR 14-BR 15) stated that prior to the officers' arrival, he stepped out of the vehicle to roll a marijuana blunt and then returned to the driver's seat. Approximately 10 to 15 minutes later, the officers approached while the vehicle was off, and § 87(2)(b) was holding the blunt. § 87(2)(b) had not lit the marijuana blunt at any point and he had not smoked that day.

§ 87(2)(b) (BR 12-BR 13) stated he also had marijuana on his person during the incident because he had a medical marijuana card. § 87(2)(b) and § 87(2)(b) both stated that when the officers approached, § 87(2)(b) was not under the influence.

Lt. Brovakos (BR 16) stated he noticed § 87(2)(b) and § 87(2)(b) sitting in an idling vehicle with its lights on. Lt. Brovakos did not recall how long he observed the vehicle. Aside from the lights on the vehicle, Lt. Brovakos did not recall observing anything else that led him to believe the vehicle was idling. Lt. Brovakos believed the vehicle had committed a second traffic violation, however he did not recall the specifics of this. Lt. Brovakos stated he may have observed tinted windows on the vehicle. Lt. Brovakos did not have an independent recollection of the vehicle either having or not having tinted windows.

Lt. Brovakos parked his car in front of and to the right of the vehicle and noticed the odor of freshly burning marijuana. Lt. Brovakos did not recall exactly when he first noticed this smell, but he believed it was prior to him opening his door and getting out. The odor smelled like marijuana that had been consumed in the last minute or so as opposed to old burnt marijuana. Lt. Brovakos was uncertain if he saw smoke inside the vehicle and he did not recall seeing a blunt in either of the occupants' hands. Lt. Brovakos believed he made other observations that led him to believe the occupants were smoking marijuana, but he was unable to provide specific details about this. Lt. Brovakos was able to differentiate between the odor of freshly burnt and stale marijuana through his training and experience as a police officer. Lt. Brovakos did not know when he received his most recent training on marijuana.

Lt. Brovakos made the decision to initiate a vehicle stop because he believed that the occupants were smoking marijuana and that the vehicle had committed a traffic infraction of idling and possibly tinted windows. Lt. Brovakos did not recall if he observed any evidence that marijuana was inside the vehicle or had been smoked inside the vehicle upon approaching. Lt. Brovakos did not recall if he observed any marijuana in plain view. Upon speaking with § 87(2)(b) Lt. Brovakos noticed he was holding a smoking device that appeared to contain a liquid chemical compound, which he considered to be possible drug paraphernalia because he was uncertain of the nature of it. Lt. Brovakos believed § 87(2)(b)'s responses, his movements, and the way he was speaking were all indicative of him being under the influence of something. § 87(2)(b) had watery eyes and his responses were lagging. Lt. Brovakos did not recall any additional specific details about § 87(2)(b)'s responses. Lt. Brovakos believed § 87(2)(b) could have used marijuana, a narcotic, alcohol, or a combination of substances, however he was unsure of which specifically.

At 00:50 into Lt. Brovakos' BWC footage (BR 01), Lt. Brovakos exits the police vehicle as the driver's side window is open. At 00:45 of PO Bhatti's BWC footage (BR 02), depicts § 87(2)(b)'s vehicle when the officers initially approach and shows that the interior and exterior lights are on, and the driver door was open. It is unclear based on BWC footage whether the engine of the vehicle is on or whether the windows of the vehicle are tinted.

At 01:58 into Lt. Brovakos' BWC footage (BR 01), he asks § 87(2)(b) "Smoking a little bit?" and § 87(2)(b) replies, "Yeah, I'm just chillin." At 02:15 into the footage, Lt. Brovakos asks § 87(2)(b) "What is that little uh, pen thing" and § 87(2)(b) replies, "Weed pen." Lt. Brovakos asks, "How is that? Any good?" and § 87(2)(b) says it is strong. At 03:08 into the footage, § 87(2)(b) appears to be holding an unlit blunt in his right hand. When § 87(2)(b)

§ 87(2)(b) is speaking with Lt. Brovakos, he answers questions coherently, his responses are not lagging, and his eyes do not appear watery. At 04:50 into the footage, Lt. Brovakos tells § 87(2)(b) that he needs to step out of the car because he and § 87(2)(b) were smoking weed. 04:40 of PO Bhatti's BWC footage (BR 02), depicts § 87(2)(b) respond that he is not smoking anything but a cigarette as he is holding one in his hand. At 07:50 into Lt. Brovakos' BWC footage (BR 01), he tells § 87(2)(b) "You guys aren't allowed to smoke in the car." § 87(2)(b) says he is smoking a cigarette. Lt. Brovakos says § 87(2)(b) was smoking a joint.

NY CLS VTL § 1192 (BR 37) states that no person shall operate a motor vehicle while the person's ability to operate such a motor vehicle is impaired by the use of a drug or by the combined influence of drugs or of alcohol and any drug or drugs.

NY CLS VTL § 1227 (BR 38) states that the drinking of alcoholic beverages or consumption of cannabis, or the possession of an open container containing an alcoholic beverage, in a motor vehicle located upon the public highways or right-of-way public highway is prohibited.

§ 87(2)(g)

Allegation (B) Abuse of Authority: At § 87(2)(b) in Brooklyn, Lieutenant Timothy Brovakos frisked § 87(2)(b)

Allegation (C) Abuse of Authority: At § 87(2)(b) in Brooklyn, Lieutenant Timothy Brovakos searched § 87(2)(b)

It is undisputed that after § 87(2)(b) provided his name and date of birth to the officers, Lt. Brovakos asked him to step out of the vehicle and he did. Lt. Brovakos frisked § 87(2)(b) and brought him to the back of § 87(2)(b)'s vehicle. The officers repeatedly instructed § 87(2)(b) to exit the vehicle and § 87(2)(b) said he was unable to do so because he was having leg spasms due to a prior injury. The officers attempted to assist § 87(2)(b) with exiting the vehicle, but he continued in his refusal to do so. The officers left without arresting § 87(2)(b) or § 87(2)(b).

§ 87(2)(b) stated that Lt. Brovakos frisked his ankles, legs, waistband, and body and squeezed his fanny pack, which contained marijuana and a cell phone. After squeezing the fanny pack, Lt. Brovakos looked inside of it. Lt. Brovakos did not search inside any other pockets. The only bulge on § 87(2)(b)'s body was his cell phone, which was inside his fanny pack.

§ 87(2)(b) did not witness Lt. Brovakos frisk or search § 87(2)(b).

Lt. Brovakos stated that when he asked § 87(2)(b) to exit the vehicle, he had probable cause to arrest him for his active warrant and for operating a vehicle while under the influence. Lt. Brovakos frisked § 87(2)(b) for weapons because he was going to be placed under arrest. Lt. Brovakos stated that other than the "X-factor" that anyone could be armed at any time, he had no reason to believe § 87(2)(b) had a weapon during the incident. Lt. Brovakos stated that there has been plenty of times where he was taking someone out of a car for a minor offense and they ended up having a gun on them. Lt. Brovakos did not recall if he did a field search of any of § 87(2)(b)'s pockets, but he did not think that he did. However, Lt. Brovakos stated that a field search would have been a search incident to a lawful arrest.

Lt. Brovakos stated that whether § 87(2)(b) was under arrest was a "grey area" because he was temporarily arrested but was ultimately not brought back to the stationhouse. However, § 87(2)(b)

§ 87(2)(b) was in the process of being arrested for the active warrant and for operating a vehicle under the influence during the incident. Lt. Brovakos made the decision not to arrest § 87(2)(b) for operating a vehicle under the influence because § 87(2)(b)'s refusal to exit the vehicle prevented the officers from retrieving evidence of this charge, including the vehicle. Lt. Brovakos stated that without this evidence, the ADA would decline to prosecute § 87(2)(b) and the case would not proceed through the courts. Lt. Brovakos believed that § 87(2)(b) would not exit the vehicle without a physical struggle, so Lt. Brovakos decided not to forcibly pull § 87(2)(b) out of the vehicle to arrest him for obstructing governmental administration, risking possible injury to him, because he knew him to have a mobility impairment. Lt. Brovakos stated that he did not arrest § 87(2)(b) for the active warrant because, amid what was happening with § 87(2)(b) he was distracted from the fact that there was a warrant for § 87(2)(b).

At 01:38 into PO Zahid's BWC video (1 of 2) (BR 05), Lt. Brovakos tells § 87(2)(b) to exit the vehicle without explanation. At 1:40, § 87(2)(b) exits the vehicle and Lt. Brovakos squeezes his fanny pack, which is across his body, and then pats down his body. Lt. Brovakos walks § 87(2)(b) to the rear of § 87(2)(b)'s vehicle. The BWC footage does not depict Lt. Brovakos look inside of § 87(2)(b)'s fanny pack at any point. At 37:21 into PO Caraballo's BWC video (1 of 2) (BR 04), Lt. Brovakos tells § 87(2)(b) "Your friend has a warrant." § 87(2)(b) asks PO Caraballo, "I have a warrant?" PO Caraballo tells § 87(2)(b) he does not know. At 00:40 into PO Zahid's BWC video (2 of 2) (BR 06), § 87(2)(b) tells PO Zahid he just overheard an officer say he has a warrant and asks if he has a warrant. PO Zahid says the officers are going to cut him a break. The officers do not handcuff § 87(2)(b) or inform him that he is under arrest at any point in the footage.

In People v. Reid, 24 N.Y.3d 615 (BR 18), the court held that under the "search incident to arrest doctrine," a search "must be incident to an actual arrest, not just to probable cause that might have led to an arrest but did not." The doctrine is applicable only when there is "proof that, at the time of the search, an arrest has already occurred or is about to occur."

In People v. DeBour 40 N.Y.2d 210 (BR 24), the court held that an officer can stop an individual if the officer has a founded suspicion that criminal activity is present and an officer can frisk an individual if the officer reasonably suspects that the individual is armed and dangerous.

§ 87(2)(g)

§ 87(2)(g)

Allegation (D) Abuse of Authority: At § 87(2)(b) in Brooklyn, Lieutenant Timothy Brovakos threatened to arrest § 87(2)(b)

Allegation (F) Force: At § 87(2)(b) in Brooklyn, Lieutenant Timothy Brovakos used physical force against § 87(2)(b)

Allegation (G) Force: At § 87(2)(b) in Brooklyn, Police Officer Aaqib Bhatti used physical force against § 87(2)(b)

Allegation (H) Force: At § 87(2)(b) in Brooklyn, Police Officer Mubbashar Zahid used physical force against § 87(2)(b)

It is undisputed that the officers repeatedly instructed § 87(2)(b) to exit the vehicle during a traffic stop and he refused to do so. § 87(2)(b) told the officers he had a mobility impairment, and he was physically unable to step out of the vehicle. § 87(2)(b)'s legs were extended upward and shaking throughout the incident, and he told the officers he was having spasms. Lt. Brovakos told § 87(2)(b) that he was committing a crime and that he would pull him out of the car.

§ 87(2)(b) stated that while he was refusing to step out of the vehicle, Lt. Brovakos said he was breaking the law and he could be locked up. Lt. Brovakos told § 87(2)(b) that he did not need to tell him what crime he was committing. Lt. Brovakos asked § 87(2)(b) if he wanted the officers to take him out of the vehicle and offered to help him step out. Lt. Brovakos grabbed § 87(2)(b)'s arm with both hands and pulled on it two to three times causing § 87(2)(b)'s arm move toward him. § 87(2)(b) told Lt. Brovakos that he needed to call for help and then reached for his cell phone, which was in the cupholder in the center console. PO Zahid leaned across § 87(2)(b) with his arm on § 87(2)(b)'s stomach and reached for the phone. PO Zahid grabbed § 87(2)(b)'s hand as it was holding the phone and squeezed and bent it, causing a scratch. A cell phone photo provided by § 87(2)(b) following the incident depicts a scratch on his hand (BR 20).

Lt. Brovakos stated the officers instructed § 87(2)(b) to step out of the vehicle so they could retrieve any evidence of § 87(2)(b) operating the vehicle under the influence, including the vehicle itself. Lt. Brovakos had probable cause to arrest § 87(2)(b) for obstructing governmental administration during the incident because he was refusing a lawful order to exit the vehicle, preventing the officers from recovering evidence, and refusing to allow officers to take the vehicle, which was arrest evidence. Lt. Brovakos stated he told § 87(2)(b) that he would be placed under arrest if he did not exit the vehicle because he was obstructing. Lt. Brovakos believed that § 87(2)(b) had the ability to exit the vehicle and was lying about having mobility issues to a further extent than he did.

Lt. Brovakos stated that he did not threaten to pull § 87(2)(b) out of the vehicle, but instead, explained to him that pulling him would have been how the officers would get him out. Lt. Brovakos said this to § 87(2)(b) so that § 87(2)(b) could make the smart decision to step out of the car so that Lt. Brovakos would not have to use force against him. Lt. Brovakos attempted to assist § 87(2)(b) with exiting the vehicle by grabbing his arm and explaining to him that he would hold him and support him as he stepped out, but § 87(2)(b) continued in his refusal to comply. Lt. Brovakos did not have an independent recollection of PO Zahid scratching § 87(2)(b)'s hand during the incident. Lt. Brovakos stated that while § 87(2)(b) was refusing to exit the vehicle, he was considered stopped because the officers had probable cause to believe that he was committing OGA.

At 04:40 into Lt. Brovakos' BWC footage (BR 01), he repeatedly asks § 87(2)(b) to exit the vehicle and § 87(2)(b) refuses. At 05:25 into the footage, Lt. Brovakos says, "We're not pulling you out of the car...but what's gonna happen is you're gonna step out or we're gonna have to because then you're doing what's called obstructing okay, that's committing a crime because you're refusing to follow lawful orders." At 06:45 into the footage, Lt. Brovakos says, "You have already committed a crime" and tells § 87(2)(b) that he is "obstructing," and he could place him under arrest. At 12:28 into the footage, Lt. Brovakos says, "I'm about to place you under arrest."

At 10:50 into the footage, Lt. Brovakos tells § 87(2)(b) he is going to come out of the car as he grabs his upper right arm with both hands. § 87(2)(b) refuses and Lt. Brovakos lets go of his arm. § 87(2)(b) says he is going to call 911 and pulls out his phone. Lt. Brovakos and PO Bhatti grab § 87(2)(b)'s arm. At 11:15 into the footage, PO Zahid grabs § 87(2)(b)'s cellphone, § 87(2)(b) lets go of the phone, and PO Zahid drops it and grabs § 87(2)(b)'s left hand. PO Bhatti and Lt. Brovakos hold onto § 87(2)(b)'s upper left arm and lightly pull him toward them.

NY CLS Penal § 195.05 (BR 22) states that a person is guilty of obstructing governmental administration when he intentionally obstructs, impairs, or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function, by means of intimidation, physical force, or interference, or by means of any independently unlawful act.

§ 87(2)(g)

NYPD Patrol Guide Procedure 221-01 (BR 21) states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances.

§ 87(2)(g)

Allegation (E) Abuse of Authority: At § 87(2)(b) in Brooklyn, Police Officer Mubbashar Zahid searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

It is undisputed that the officers instructed § 87(2)(b) to exit the vehicle so they could search it.

§ 87(2)(b) stated that as he was speaking with Lt. Brovakos, PO Zahid put his hand underneath the driver's seat and looked around the driver seat. § 87(2)(b) stated that none of the officers searched the vehicle during the incident.

Lt. Brovakos did not have an independent recollection of PO Zahid looking around or underneath driver's seat of § 87(2)(b)'s vehicle.

PO Zahid's BWC footage captures the entirety of the time that he is by the driver's door of § 87(2)(b)'s vehicle and it does not depict him looking around or underneath the driver's seat at any point.

§ 87(2)(g)

Allegation (I) Abuse of Authority: At § 87(2)(b) in Brooklyn, Lieutenant Timothy Brovakos frisked § 87(2)(b)
Allegation (J) Abuse of Authority: At § 87(2)(b) in Brooklyn, Lieutenant Timothy Brovakos stopped § 87(2)(b)

It is undisputed that while § 87(2)(b) was refusing to exit the vehicle, he claimed he was physically unable to due to a prior injury. § 87(2)(b) periodically had one of his legs extended straight. As Lt. Brovakos and PO Bhatti pulled on § 87(2)(b)'s arms to take him out of the vehicle, Lt. Brovakos asked him if he had a weapon and frisked his waistband. Lt. Brovakos did not recover a firearm or contraband from § 87(2)(b) during the incident.

§ 87(2)(b) stated that aside from his waistband, Lt. Brovakos did not pat anywhere else on his body. § 87(2)(b) made no mention of Lt. Brovakos asking for his identification during

the incident, however BWC footage depicts this occurring.

Lt. Brovakos stated that he believed § 87(2)(b)'s refusal to exit the vehicle due to his mobility impairment was a ruse and that § 87(2)(b) was doing this to prevent the officers from confiscating evidence or for some other reason. As Lt. Brovakos was attempting to assist § 87(2)(b) with stepping out, § 87(2)(b) stuck his leg up, shook it, and claimed he was spasming. § 87(2)(b)'s leg was not retracting and Lt. Brovakos believed it was shaking because § 87(2)(b) was keeping an "inflection." § 87(2)(b) simultaneously tensed and flexed other parts of his body in an apparent attempt to make himself unable to get out of the vehicle. Lt. Brovakos believed § 87(2)(b) was being deceptive about the extent of his mobility issues because what he was doing was not consistent with how someone's body would move while they are spasming. § 87(2)(b)'s level of deception, and his degree of determination to continue this deception after several requests from officers to exit the vehicle, led Lt. Brovakos to believe that he may have had a firearm. Lt. Brovakos had been in several situations during which people refused to exit a vehicle in same fashion as § 87(2)(b) and they ended up having a firearm in their waistband.

Lt. Brovakos stated that § 87(2)(b)'s waistband appeared bulky and is if something could have been there, which also contributed to his belief that § 87(2)(b) could have had a firearm. Lt. Brovakos patted along § 87(2)(b)'s waistband and then squeezed a bag he had underneath his arm to ensure that he did not have a firearm on him. Lt. Brovakos did not recall if he felt any hard objects when he frisked § 87(2)(b) but he knew he did not feel a gun. Lt. Brovakos believed that the bulkiness he had observed on § 87(2)(b)'s waistband was caused by the way his pants or shirt were bunched up and the way his body was positioned. Lt. Brovakos did not recall exactly how § 87(2)(b)'s clothing was bunched up when he observed this.

At 11:05 into Lt. Brovakos' BWC footage (**BR 01**), he attempts to pull § 87(2)(b) out of the vehicle and § 87(2)(b) refuses to comply. Lt. Brovakos asks § 87(2)(b) if he has a weapon on him and § 87(2)(b) says he does not. Lt. Brovakos asks, "Why are you doing this then" and squeezes § 87(2)(b)'s bag and feels his waistband. The footage does not depict any visible bulges on § 87(2)(b)'s person at any point. At 23:30 into the footage § 87(2)(b) continues refusing Lt. Brovakos' instructions to exit the vehicle. Lt. Brovakos asks § 87(2)(b) for his identification, and he provides it.

In People v. DeBour 40 N.Y.2d 210 (BR 24), the court held that an officer can stop an individual if the officer has a founded suspicion that criminal activity is present and an officer can frisk an individual if the officer reasonably suspects that the individual is armed and dangerous.

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

Allegation (K) Discourtesy: At § 87(2)(b) in Brooklyn, Lieutenant Timothy Brovakos spoke discourteously to § 87(2)(b)

Allegation (L) Discourtesy: At § 87(2)(b) in Brooklyn, Lieutenant Timothy Brovakos spoke discourteously to § 87(2)(b)

It is undisputed that § 87(2)(b) claimed to have defecated on himself during the incident and Lt. Brovakos said, “Shit” while speaking with him.

§ 87(2)(b) stated that he told Lt. Brovakos that he defecated on himself and Lt. Brovakos said, “I don’t care, I don’t believe you, I don’t give a shit.” § 87(2)(b) made no mention of Lt. Brovakos saying, “Shit” in any other context during the incident.

Lt. Brovakos stated that § 87(2)(b) used the word “shit” to describe defecation and Lt. Brovakos replied using the same word. Lt. Brovakos used the word “shit” because he was referencing feces. Lt. Brovakos stated that § 87(2)(b) knew what the word “shit” was because he used it first and Lt. Brovakos just used it in return. Lt. Brovakos did not use this word in an angry or demeaning way toward § 87(2)(b). Lt. Brovakos stated he could have said, “doody booty,” or something someone would say to a child, but he believed that this would have been insulting to do. Lt. Brovakos did not know if he said, “I don’t give a shit,” but he did not believe he did so.

At 12:50 into Lt. Brovakos’ BWC footage (BR 01), § 87(2)(b) says, “I’m shitting on myself.” Lt. Brovakos says, “There’s no reason for you to shit on yourself because your leg is tensing up. All of a sudden, the police show up, and now you’re shitting on yourself?” § 87(2)(b) says he is fucking shitting on himself. At 14:05 into the footage, Lt. Brovakos repeatedly tells § 87(2)(b) to slide out of the car and he refuses. Lt. Brovakos says he does not care, and he does not think § 87(2)(b) is being honest. Lt. Brovakos says, “You didn’t shit yourself; I don’t smell anything. You didn’t shit yourself, that’s a lie.” The footage does not depict Lt. Brovakos stating, “I don’t give a shit” at any point.

Patrol Guide Procedure 200-02 (BR 29) states members of service must respect the dignity of each individual and render services with courtesy and civility.

§ 87(2)(g)

However, the footage depicts Lt. Brovakos saying, “Shit” and, “Shitting” in response to § 87(2)(b) saying, “Shitting.” § 87(2)(g)

Allegation (M) Abuse of Authority: At § 87(2)(b) in Brooklyn, Lieutenant Timothy Brovakos threatened to arrest § 87(2)(b)

Allegation (N) Abuse of Authority: At § 87(2)(b) in Brooklyn, an officer threatened to arrest § 87(2)(b)

It is undisputed that Lt. Brovakos told § 87(2)(b) that § 87(2)(b) had a warrant. § 87(2)(b) stated that while he was standing at the back of the vehicle, an officer told him he had a warrant for a marijuana charge from 2019. § 87(2)(b) did not know which officer

said this to him. Lt. Brovakos told § 87(2)(b) that if he did not come out of the vehicle, then the officers would take § 87(2)(b) in because he had a warrant. A white or Hispanic male officer wearing a blue uniform told § 87(2)(b) the officers could take him in.

§ 87(2)(b) stated that § 87(2)(b) did not have a warrant and he believed that the officers said this to make it appear as though they were doing him a favor by not bringing him to jail.

Lt. Brovakos stated that § 87(2)(b) identified himself to the officers and PO Zahid ran his name, which showed he had an active warrant. Lt. Brovakos did not recall any specific details of the warrant, but he believed it was not for a violent crime or anything that would require him to go to court immediately. Lt. Brovakos did not recall how PO Zahid informed him about the warrant. Lt. Brovakos was unsure if an officer said they could take § 87(2)(b) in because he had a warrant.

At 37:15 into PO Caraballo's BWC video (1 of 2) (BR 04), Lt. Brovakos tells § 87(2)(b) "Your friend has a warrant." § 87(2)(b) asks PO Caraballo, "I have a warrant?" PO Caraballo tells § 87(2)(b) he does not know. At 00:40 into PO Zahid's BWC video (2 of 2) (BR 06), § 87(2)(b) tells PO Zahid he just overheard an officer say he has a warrant and asks if he has a warrant. PO Zahid says the officers are going to cut him a break. BWC footage does not depict an officer telling § 87(2)(b) that the officers could take him in.

A request to NYPD Legal Bureau for any active warrants associated with § 87(2)(b) at the time of the incident was sent on October 19, 2022, the results of which have not yet been received. The results will be included in the case upon receipt.

§ 87(2)(g)

§ 87(2)(g)

Allegation (O) Abuse of Authority: At § 87(2)(b) in Brooklyn, Lieutenant Timothy Brovakos threatened to arrest § 87(2)(b)

§ 87(2)(b) made no mention of Lt. Brovakos threatening to arrest him for driving with a suspended license, however BWC footage depicts this occurring.

Lt. Brovakos stated that he knew § 87(2)(b)'s license was suspended because he had stopped him in the past and cut him a break for operating a vehicle with a suspended license. Lt. Brovakos knew that § 87(2)(b)'s license was suspended at the time of the incident because one of the officers, he did not recall whom, ran his name.

At 20:30 into Lt. Brovakos' BWC footage (BR 01), Lt. Brovakos says he has stopped § 87(2)(b) in the past while he was driving with a suspended license, and he had not arrested him. At 39:10 into the footage, Lt. Brovakos tells § 87(2)(b) "The next time you're in the driver's seat of the car, and you're suspended...the very next time you're in the driver seat of a car and the engine is running, I'm gonna place you under arrest and you're gonna come out of the car very efficiently, safely, and fast."

NY CLS Vehicle & Traffic Law § 511 (BR 23) states that a person is guilty of aggravated unlicensed operation of a motor vehicle in the third degree when such person operates a motor vehicle upon a public highway while knowing or having reason to know that such person's license or privilege of operating such motor vehicle in this state or privilege of obtaining a license to operate such motor vehicle issued by the commissioner is suspended, revoked or otherwise withdrawn by the commissioner.

§ 87(2)(g)

§ 87(2)(g)

Allegation (P) Abuse of Authority: At § 87(2)(b) in Brooklyn, Lieutenant Timothy Brovakos failed to provide § 87(2)(b) with a business card.
Allegation (Q) Abuse of Authority: At § 87(2)(b) in Brooklyn, Lieutenant Timothy Brovakos failed to provide § 87(2)(b) with a business card.

It is undisputed that Lt. Brovakos frisked § 87(2)(b) and § 87(2)(b) and he did not provide a business card to either of the men.

§ 87(2)(b) stated that none of the officers offered their business cards to him, and he did not know if any officers offered one to § 87(2)(b). § 87(2)(b) stated that none of the officers offered him a business card.

Lt. Brovakos stated that he did not provide a business card to § 87(2)(b) or § 87(2)(b) because he had depleted them earlier in his tour that day. Lt. Brovakos stated he was not required to provide a card to § 87(2)(b) because he did not have any cards on his person, and because he told § 87(2)(b) his name during the incident. Lt. Brovakos stated that when an officer does not have business cards with them, they are required to provide their name if the circumstances require that they provide a card. Lt. Brovakos stated that he was not required to provide a business card to § 87(2)(b) because § 87(2)(b) was momentarily arrested instead of stopped for reasonable suspicion of a crime. Lt. Brovakos stated that he would not be required to give a person any documentation when they are momentarily under arrest and ultimately released. Lt. Brovakos stated that he would not be required to provide a business card to a person who was frisked incident to a lawful arrest.

At 28:20 into Lt. Brovakos's BWC footage (BR 01), he tells PO Caraballo, "Just let him know we got a contact card for him if he needs it." At 27:20 of PO Caraballo's video (1 of 2) (BR 04), he tells § 87(2)(b) "We got contact cards in case you need them." § 87(2)(b) nods his head. PO Caraballo says, "Everything is being recorded too." § 87(2)(b)'s response is unintelligible. PO Caraballo says, "Yeah, I know but we just gotta make sure everybody knows."

NYC Administrative Code 14-174 (BR 30) states that an officer shall offer a business card to a person at the conclusion of pedestrian stops and frisks that do not result in an arrest or summons. When an officer does not have an adequate number of pre-printed business cards on their person, they must offer to provide their name, rank, shield number, and command on a hand-written card.

§ 87(2)(g)

Allegation (R) Abuse of Authority: At the 71 Precinct stationhouse, an officer did not process § 87(2)(b)'s complaint regarding officers.

§ 87(2)(b) stated that sometime between 8 AM and 9 AM, he spoke with an officer outside the stationhouse who was sitting in either a police “buggy” or smart car. § 87(2)(b) told the officer that he wanted to file a complaint against officers and explained what had happened that morning. The officer went into the stationhouse briefly and returned with a piece of paper that included instructions for filing a complaint online. The officer also provided § 87(2)(b) with a phone number to call to file his complaint. § 87(2)(b) told the officer that he wanted to file his complaint at the stationhouse, and she told him that he could not do this, without providing a reason as to why. § 87(2)(b) did not enter that stationhouse at any point and ultimately filed his complaint online. § 87(2)(b) described the officer as an approximately 5’2” tall Black female in her 20s who had an average build, black hair, brown eyes, and who was wearing a blue uniform.

Lt. Brovakos had no knowledge of § 87(2)(b) going to the 71st Precinct stationhouse to file a complaint about officers.

The 71st Precinct Tour 1 Roll Call (**BR 33**), does not list any Black females as being assigned to the stationhouse and the document lists PO Damien Rutkowski, a white male, as assigned to stationhouse security. The 71st Precinct Tour 2 Roll Call (**BR 31**) shows that two Black female officers, PO Astrida Reid and PO Andrea Lemmon, were assigned to T/S operator and the stationhouse complaint room respectively. Both PO Reid and PO Lemmon are listed as restricted duty. The officers assigned to stationhouse security during Tour 2 are PO Pablo Rivera and Sgt. Shamar Powell, both of whom are male. The 71st Precinct Daily Vehicle Assignment Sheet (**BR 32**) from the date of the incident does not list any officers assigned to two- or three-wheel scooters.

PO Reid’s MOS Photo (**BR 34**) shows she is a 5’5” tall § 87(2)(b)-old Black female with a heavy build, black hair, and brown eyes. PO Lemmon’s MOS Photo (**BR 35**) shows she is a § 87(2)(b)-year-old 5’7” tall Black female with an average build, brown hair, and brown eyes.

PO Lemmon (**BR 17**) stated that she did not interact with the public on the date of the incident, and she did not believe she was involved in an encounter with § 87(2)(b). PO Lemmon’s responsibilities that day involved answering calls and entering UF-61 complaints into the computer in the complaint room. PO Lemmon was on restricted duty because she was pregnant, and she worked in plainclothes.

Stationhouse footage was not requested for the incident date because the investigation was made aware of this allegation in a follow-up call after the footage had expired.

§ 87(2)(g)
[REDACTED]

§ 87(4-b), § 87(2)(g) -
[REDACTED]

[REDACTED]

§ 87(4-b) § 87(2)(g)

§ 87(4-b) § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to two CCRB complaints and has been named as a victim in three allegations (**BR 09**).
 - § 87(2)(b)
 -
- This is the first CCRB complaint to which § 87(2)(b) has been a party (**BR 08**).
- Lt. Brovakos has been a member of service for 15 years and has been a subject in 38 CCRB complaints and 151 allegations, 22 of which were substantiated.
 - 202104788 involved a substantiated allegation of discourtesy against Lt. Brovakos. The Board recommended Command Discipline A and the NYPD has yet to impose discipline.
 - 202103919 involved substantiated allegations of failure to provide RTKA card, frisk, and stop against Lt. Brovakos. The Board recommended Command Discipline B and the NYPD has yet to impose discipline.
 - 202103599 involved substantiated allegations of failure to provide RTKA card and frisk against Lt. Brovakos. The Board recommended charges and the NYPD has yet to impose discipline.
 - 202100965 involved substantiated allegations of failure to provide RTKA card, seizure of property, and discourtesy (twice) against Lt. Brovakos. The Board recommended charges and the NYPD has yet to impose discipline.
 - 202100053 involved substantiated allegations of failure to provide RTKA card, frisk, stop, and threat of arrest against Lt. Brovakos. The Board recommended charges and the NYPD has yet to impose discipline.
 - 202007569 involved substantiated allegations of failure to provide RTKA card (twice) against Lt. Brovakos. The Board recommended Command Discipline B and the NYPD has yet to impose discipline.
 - 202007423 involved substantiated allegations of failure to provide RTKA card (twice) against Lt. Brovakos. The Board recommended Command Discipline B and the NYPD has yet to impose discipline.

- 202003306 involved a substantiated allegation of seizure of property against Lt. Brovakos. The Board recommended Command Discipline A and the NYPD has yet to impose discipline.
- 201910398 involved a substantiated allegations of failure to provide RTKA card and discourtesy against Lt. Brovakos. The Board recommended Command Discipline A and the NYPD did not impose a penalty.
- 201905132 involved a substantiated allegation of discourtesy against Lt. Brovakos. The Board recommended command level instructions, which was imposed by the NYPD.
- 201500206 involved a substantiated allegation of vehicle search against Lt. Brovakos. The Board recommended Command Discipline B and the NYPD imposed Formalized Training.
- Lt. Brovakos has had 12 failures to provide RTKA card allegations pleaded against him, nine of which were substantiated, § 87(2)(g), § 87(2)(b)
 - § 87(2)(g)
- Lt. Brovakos has had 15 frisk allegations pleaded against him, three of which were substantiated, one was unsubstantiated, six were exonerated, § 87(2)(b) one was closed as victim unidentified, and § 87(2)(g)
 - § 87(2)(g)
- Lt. Brovakos has had 14 discourtesy allegations pleaded against him, of which five were substantiated, one was unsubstantiated, one was closed pending litigation, two were closed as complainant uncooperative/victim unavailable, one was exonerated, two were unfounded, and § 87(2)(g)
- PO Bhatti has been a member of service for five years and has been a subject in seven CCRB complaints and 35 allegations, none of which were substantiated. § 87(2)(g)
- PO Zahid has been a member of service for four years and has been a subject in nine cases and 26 allegations, two of which were substantiated.
 - 202100053 involved substantiated allegations of frisk and stop, for which the Board recommended Command Discipline B and the NYPD imposed Formalized Training.
 - § 87(2)(g)

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of October 25, 2022, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this incident (**BR 19**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 16

Investigator:	<u>Inv. Dean</u>	<u>Inv. Dean</u>	<u>11/9/22</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Patrick Yu</u>	<u>IM Patrick Yu</u>	<u>11/10/2022</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date